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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,392	07/07/2004	Douglas A. Low		5142
29859	7590	02/21/2007	EXAMINER	
DOUGLAS A. LOW			WEINSTEIN, LEONARD J	
136 STOLP AVE.			ART UNIT	PAPER NUMBER
SYRACUSE, NY 13207			3746	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/21/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/710,392	LOW, DOUGLAS A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Leonard J. Weinstein	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 07 July 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings, Figs. 1-2, filed July 7, 2004 are objected to under 37 CFR 1.84 for the reasons indicated below. Corrected drawings are required.

- a. 37 CFR 1.84(k) – *Scale*. Scale not large enough to show mechanism without crowding when the drawing is reduced in size to two-thirds in reproduction.
- b. 37 CFR 1.84 (l) – *Character of Lines, Numbers, and Letters*. Lines, number and letters not uniformly thick and well defined, clean, durable and black (poor line quality).
- c. 37 CFR 1.84(p) – *Numbers, Letters, and Reference Characters*. Numbers and reference characters not plain and legible.

3. The drawings are objected to, it is suggested that drawings for Figs. 1-2 be provided larger in scale and on separate sheets if necessitated by an increase in size. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Struthers 6,481,973. Struthers teaches all the limitations as substantially claimed for an apparatus used to determine an operational status of a sump pump including: an electronic circuit 22, figure 2, having timing, 138, 152, and 146, and logic 24, figure 5B, to determine said operational status of said sump pump 54, a flow detection 128 means indicating that water is flowing out of the system (col. 8 ll. 3-8) utilizing said sump pump, pump state detecting means, 22, 24 and 38 (col. 8 ll. 17-22), wherein the state of said sump pump 4 either being ON when said sump pump has been activated for any reason or OFF whenever said sump pump is not activated (col. 9 ll. 32-34), means, 22, 24, and 38, for communicating said output flow (col. 9 ll 37-39) to

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said electronic circuit, means, 22, 24, and 38 for communicating said pump state (col. 9. II 23-38) to said electronic circuit, means, 22, 24, and 38, of alerting an operator of a pump failure (col. 8 II. 62-67, col. 9 II. 1-2), means, 22, 38, and 78, of alerting said operator of said pump state (col. 9 11. 1-2), and means, 22, 38, and 78, of alerting said operator of said output flow (col. 9 II. 37-39); an apparatus indicating whenever a pump state is ON and output flow has not been detected for a predetermined amount of time from the time the pump state changed from OFF to ON (col. 7 II. 16-19, 60-67); an apparatus capable of generating alerts when pump state is ON, via 22, 74, and 80 (col. 4 II. 40-46, col. 9 II. 23-25); an apparatus capable of generating alerts when flow detection is indicated, via 22, 74, and 80 (col. 4 II. 40-46, col. 9 II. 23-25); and an apparatus that generates an optional capacity alert 114 when an output flow detection 112 has been indicated for a predetermined amount of time and the alert indicates excessive leakage (col. 7 II. 34-37).

***Conclusion***

6. The prior art made of record and relied upon are cited on form 892 herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard J. Weinstein whose telephone number is 571-272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LJW

02/14/2007



EHUD GARTENBERG  
SUPERVISORY PATENT EXAMINER